IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL STAMP NO.21926 OF 2002.

Konkan Railway Corporation Ltd. : Appellant.

versus

Sou.Meena Jayant Nagavekar

Through Power of Attorney holder Respondent/

Mohan Kashiram Mayekar : Claimant.

And

The State of Maharashtra

[Through the Special Land

Acquisition Officer, Ratnagiri : Respondent.

Ms.Kiran Bhagalia for the appellant.

Mr.S.M.Kazi for the respondent/claimant.

CORAM : D.G.DESHPANDE,J.

DATED : 24th June 2005.

ORAL ORDER

1. Advocates for the appellants and respondents are present. Both of them state that in similar matter i.e. F.A.No.1003 of 2003 the Division Bench of this Court had passed an order

on 1st March 2005 remanding the matter to the reference Court. They have tendered a copy of the said order and they want that an order in terms of paras 9 and 10 of the said order be passed.

2. There is an application for leave to file appeal and also for condonation of delay. By consent all the applications are allowed. Another application NO.2784 of 2005 taken out by the respondent does not survive. In view of the order of the Division Bench in F.A. 1003 of 2003, by consent, the following order :-

:ORDER:

> "The appeal is partly allowed. The order passed by the Civil Judge, Senior Division, Ratnagiri in a Land Reference No.123 of 1996 on 20th July 2001 is hereby set aside and the matter is remanded back to the Civil Judge, Senior Division, Ratnagiri. The appellants shall suo-moto appear before the Civil Judge, Senior Division, Ratnagiri on 20th July 2005 and shall file a written

statement within two weeks. Thereafter the Civil Judge, Senior Division, Ratnagiri shall recast the issues, record the evidence, hear the matter and decide it within six months. Parties are directed to co-operate the Civil Judge, Sr.Division, Ratnagiri.

"I find it appropriate to direct the appellant to deposit amount of 50% enhanced compensation including the solatium, component and interest as directed in the order dated 20th July 2001 by the Civil Judge, Senior Division, Ratnagiri. The said amount shall be deposited within 3 weeks from today in the Court of Civil Judge, Senior Division, Ratnagiri. On deposit of such amount, the Civil Judge, Senior Division, Ratnagiri shall release the 50% of the said deposited amount in favour of the respondent/claimant without any surety and if the respondent tenders a solvent surety in respect of rest of the 50%, the same shall be released in favour of respondent/claimant. Costs in cause.

[D.G.DESHPANDE]

24/06/2005 JUDGE.